

Department of Veterans Affairs

§3.212

from any public or private welfare organization which furnished services or assistance to children. (Pub. L. 86-195)

(d) *Stepchild*. Evidence of relationship of a stepchild will consist of proof of birth as outlined in §3.209, evidence of the marriage of the veteran to the natural parent of the child, and evidence that the child is a member of the veteran's household or was a member of the veteran's household at the date of the veteran's death.

CROSS REFERENCE: Evidence of dependents and age. See §3.204.

[26 FR 1573, Feb. 24, 1961, as amended at 27 FR 1899, Feb. 28, 1962; 28 FR 2959, Mar. 26, 1963; 38 FR 871, Jan. 5, 1973; 47 FR 28096, June 29, 1982; 52 FR 19349, May 22, 1987; 59 FR 46338, Sept. 8, 1994]

§3.211 Death.

Death should be established by one of the following types of evidence:

(a)(1) A copy of the public record of the State or community where death occurred.

(2) A copy of a coroner's report of death or a verdict of a coroner's jury of the State or community where death occurred, provided such report or verdict properly identified the deceased.

(b) Where death occurs in a hospital or institution under the control of the United States Government:

(1) A death certificate signed by a medical officer; or

(2) A clinical summary or other report showing fact and date of death signed by a medical officer.

(c) An official report of death of a member of a uniformed service from the Secretary of the department concerned where death occurs while deceased was on the retired list, in an inactive duty status, or in the active service.

(d) Where death occurs abroad:

(1) A United States consular report of death bearing the signature and seal of the United States consul; or

(2) A copy of the public record of death authenticated (see §3.202(b)(4) for exception) by the United States consul or other agency of the State Department; or

(3) An official report of death from the head of the department concerned, where the deceased person was, at the

time of death, a civilian employee of such department.

(e) If the foregoing evidence cannot be furnished, the reason must be stated. The fact of death may then be established by the affidavits of persons who have personal knowledge of the fact of death, have viewed the body of the deceased, know it to be the body of the person whose death is being established, setting forth all the facts and circumstances concerning the death, place, date, time, and cause thereof.

(f) If proof of death, as defined in paragraphs (a) through (e) of this section cannot be furnished, a finding of fact of death, where death is otherwise shown by competent evidence, may be made by an official authorized to approve such findings. Where it is indicated that the veteran died under circumstances which precluded recovery or identification of the body, the fact of death should be established by the best evidence, which from the nature of the case must be supposed to exist.

(g) In the absence of evidence to the contrary, a finding of fact of death made by another Federal agency will be accepted for the purposes of paragraph (f) of this section.

CROSS REFERENCE: Evidence of dependents and age. See §3.204.

[26 FR 1573, Feb. 24, 1961, as amended at 27 FR 1899, Feb. 28, 1962; 52 FR 19349, May 22, 1987; 59 FR 46338, Sept. 8, 1994]

§3.212 Unexplained absence for 7 years.

(a) If satisfactory evidence is produced establishing the fact of the continued and unexplained absence of any individual from his or her home and family for a period of 7 years or more and that a diligent search disclosed no evidence of his or her existence after the date of disappearance, and if evidence as provided in §3.211 cannot be furnished, the death of such individual as of the expiration of such period may be considered as sufficiently proved.

(b) No State law providing for presumption of death will be applicable to claims for benefits under laws administered by the Department of Veterans Affairs and the finding of death will be final and conclusive except where suit